

### REMARKS

Claims 14-16, 18-21, 32-34, 36-42, and 44-47 were pending as of the Office Action mailed January 29, 2008. Claims 14, 32, and 40 are being amended. Claims 21, 39, and 47 are being cancelled. No new matter has been added. Reexamination of the application and reconsideration of the action are respectfully requested in light of the foregoing amendments and the following remarks.

Claims have been rejected 14-16, 18, 20-21, 32-34, 36, 38, 39-42, 44, 46 and 47 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,129,276 to Jelen et al. ("Jelen"). Independent claim 14 recites, *inter alia*, "receiving the first customer request in a selected input modality chosen from **any of a plurality of input modalities** associated with the electronic device available for data entry into the first field, the plurality of input modalities including a microphone, a bar code scanner, a keyboard, and a stylus, wherein the product identifier is either spoken into the microphone, scanned with the bar code scanner, entered using the keyboard, or entered using the stylus; determining sales information responsive to the customer request; [and] associating the sales information with each of the plurality of input modalities by expressing the sales information in each of a plurality of formats, wherein each of the plurality of formats is associated with one of the plurality of input modalities." Claims 32 and 40 recite similar limitations. The applied references are not seen to disclose, teach or to suggest the foregoing features recited by the independent claims.

Jelen discloses a system for acquiring shopping list information including a user terminal and a base unit, where the user terminal includes a bar code scanner for getting UPC information from a product container. *See Abstract*. The list is built with data obtained directly from indicia associated with either a product, such as with a UPC code label, or from secondary sources such as coupons associated with purchases. Nothing in Jelen discloses or teaches "a plurality of modalities," much less "receiving the first customer request in a selected input modality chosen from any of a plurality of input modalities associated with the electronic device available for data entry into the first field, the plurality of input modalities including a microphone, a bar code scanner, a keyboard, and a stylus, wherein the product identifier is either spoken into the microphone, scanned with the bar code scanner, entered using the keyboard, or entered using the

stylus; determining sales information responsive to the customer request; [and] associating the sales information with each of the plurality of input modalities by expressing the sales information in each of a plurality of formats, wherein each of the plurality of formats is associated with one of the plurality of input modalities,” as recited in claim 14, as well as claims 32 and 40. Accordingly, based on the foregoing amendments and remarks, independent claims 14, 32 and 40 are believed to be allowable over Jelen.

Claims 19, 37 and 45 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jelen in view of Official Notice. Applicants respectfully traverse the Examiner's official notice that it is old and well known in the art to use VXML for data entry. Under MPEP § 2144.03(A), official notice, may only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. See MPEP § 2144.03(A). More to the point, an Examiner is prohibited from taking official notice of facts without citing a reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. See *id.* In the instant case, Applicants respectfully assert that the feature of receiving a voice input, and wherein the first page is associated with Voice Extensible Markup Language (VXML) is not capable of instant and unquestionable demonstration. Having failed to locate this feature after either conducting an exhaustive reference search or reviewing the Applicants' disclosed references, Applicants respectfully assert that these features are ineligible for office notice, and further request that the Examiner provide documentary evidence if the rejection is to be maintained. See MPEP § 2133.03(C).

Accordingly, a *prima facie* case of obviousness has not been shown, and claims 19, 37, and 45 are also allowable over Jelen.

The other remaining claims in the application are each dependent on independent claims 14, 32, and 40 and are believed to be allowable for at least the same reasons. Because each dependent claim is deemed to define an additional aspect of the disclosure, individual consideration of each on its own merits is respectfully requested.

No other matters being raised, it is believed that the entire application is fully in condition for allowance and such action is courteously solicited.

Applicant : Samir Raiyani, et al.  
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Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: April 17, 2008

A handwritten signature in black ink, appearing to read 'Leila R. Abdi', written over a horizontal line.

Leila R. Abdi  
Reg. No. 52,399

1180 Peachtree Street, N.E., 21st Floor  
Atlanta, GA 30309  
Telephone: (404) 892-5005  
Facsimile: (404) 892-5002

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